

REMARKS

This Application has been carefully reviewed in light of the Advisory Action mailed April 5, 2004. Applicant respectfully requests reconsideration and favorable action in this case.

The Examiner issued a Final Action on December 31, 2003. Applicant submitted a Response to Examiner's Final Action on March 1, 2004. The Examiner issued an Advisory Action on April 5, 2004 stating that the Response to Examiner's Final Action would not be entered because it was deemed to not place the Application in condition for allowance. Applicant respectfully requests that the Response to Examiner's Final Action be entered and considered by the Examiner pursuant to this Request for Continued Examination.

Pursuant to the Examiner's request, attached herewith are copies of the foreign and other documents, with the relevant page of Form PTO-1449, previously provided in the Information Disclosure Statement filed January 3, 2001. Applicant respectfully requests the Examiner to consider these references and all documents cited therein and provide an indication that these cited documents were considered during examination of the present Application.

Claims 1-4, 13-16, 28-31, and 38-41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and further in view of Gerszberg, et al. Independent Claims 1, 13, 28, and 38 recite in general the ability to interface with first and second data communication protocols and that the associated broadband networks providing data packets can be any of digital subscriber line, cable, or wireless platforms. By contrast, the Examiner readily admits that the Focsaneanu, et al. patent fails to disclose the ability to interface with first and

second data communication protocols and also fails to disclose the types of broadband networks provided in the claims. Thus, the Focsaneanu, et al. patent is insufficient by itself to support a rejection of the claims.

The Examiner combines the Chao, et al. patent with the Focsaneanu, et al. patent to support the ability to interface with first and second data communication protocols. However, the Chao, et al. patent is merely directed to an optical customer premises network for interfacing customer premises equipment. The portion of the Chao, et al. patent cited by the Examiner is concerned with a protocol for handling multiple priorities, which is not remotely related to interfacing with first and second data communication protocols. The unique protocol discussed in the Chao, et al. patent is a contention protocol to provide fair access to the upstream bus for all units. Thus, the contention protocol for providing fair access to the upstream bus mentioned by the Chao, et al. patent does not provide the ability to interface with first and second data communication protocols as required by the claimed invention.

The Examiner combines the Gerszberg, et al. patent with the Focsaneanu, et al. patent to support the fact that the associated broadband networks providing data packets can be any of digital subscriber line, cable, or wireless platforms. However, the portions of the Gerszberg, et al. patent cited by the Examiner provide for only a single type of communication capability to and from its customer premises. Thus, the Gerszberg, et al. patent does not disclose interfacing with first and second data communication protocols as required by the claimed invention. Therefore, Applicant respectfully submits that Claims 1-4, 13-16, 28-31, and 38-41 are

patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. combination.

Claims 5-7, 17-19, 32, 33, 42, and 43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Hortenslus, et al. Independent Claim 1, from which Claims 5-7 depend; Independent Claim 13, from which Claims 17-19 depend; Independent Claim 28, from which Claims 32 and 33 depend; and Independent Claim 38, from which Claims 42 and 43 depend, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Hortenslus, et al. application does not include any additional disclosure combinable with the Focsaneanu, et al. or Chao, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 5-7, 17-19, 32, 33, 42, and 43 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Hortenslus, et al. combination.

Claims 8, 10, 12, 20, 22, 24, 34, 35, 37, 44, 45, and 47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Pounds, et al. Independent Claim 1, from which Claims 8, 10, and 12 depend; Independent Claim 13, from which Claims 20, 22, and 24 depend; Independent Claim 28, from which Claims 34, 35, and 37 depend; and Independent Claim 38, from which Claims 44, 45, and 47 depend, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Pounds, et al. application does not include any additional disclosure combinable with the Focsaneanu, et al. or Chao, et al. patents that would be

material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 8, 10, 12, 20, 22, 24, 34, 35, 37, 44, 45, and 47 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Pounds, et al. combination.

Claims 11, 23, 36, and 46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Lyles, et al. Independent Claim 1, from which Claim 11 depends; Independent Claim 13, from which Claim 23 depends; Independent Claim 28, from which Claim 36 depends; and Independent Claim 38, from which Claim 46 depends, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Lyles, et al. application does not include any additional disclosure combinable with the Focsaneanu, et al. or Chao, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 11, 23, 36, and 46 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Lyles, et al. combination.

Applicant notes with appreciation the allowability of Claims 9, 21, and 25-27 if placed into appropriate independent form. Applicant respectfully defers placing Claims 9, 21, and 25-27 into independent form pending reconsideration and final disposition of the existing independent claims.

Attached herewith is a check in an amount of \$770.00 made payable to the "Commissioner of Patents and Trademarks" to satisfy the request for continued examination fee of 37 C.F.R. §1.17(e).

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 1-47.

An extension of one (1) month is respectfully requested and a Notification of Extension of Time under § 1.136 with the appropriate fee is attached hereto.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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